

taken into account under this paragraph (c) unless the Commissioner determines that the failure to pay timely is not due to willful neglect. The provisions of § 1.148-3(i) apply to payments made under § 1.148-5(c).

(c)(2)(ii) through (c)(3)(i) [Reserved]. For guidance see § 1.148-5.

(c)(3)(ii) *Exception to yield reduction payments rule for advance refunding issues.* Section 1.148-5(c)(1) does not apply to investments allocable to gross proceeds of an advance refunding issue, other than—

(A) Transferred proceeds to which § 1.148-5(c)(3)(i)(C) applies;

(B) Replacement proceeds to which § 1.148-5(c)(3)(i)(F) applies; and

(C) Transferred proceeds to which § 1.148-5(c)(3)(i)(E) applies, but only to the extent necessary to satisfy yield restriction under section 148(a) on those proceeds treating all investments allocable to those proceeds as a separate class.

(d)(1) through (d)(3)(i) [Reserved]. For guidance see § 1.148-5.

(d)(3)(ii) *Exception to fair market value requirement for transferred proceeds allocations, universal cap allocations, and commingled funds.* Section 1.148-5(d)(3)(i) does not apply if the investment is allocated from one issue to another issue as a result of the transferred proceeds allocation rule under § 1.148-9(b) or the universal cap rule under § 1.148-6(b)(2), provided that both issues consist exclusively of tax-exempt bonds. In addition, § 1.148-5(d)(3)(i) does not apply to investments in a commingled fund (other than a bona fide debt service fund) unless it is an investment being initially deposited in or withdrawn from a commingled fund described in § 1.148-6(e)(5)(iii).

(e)(1) through (e)(2)(ii)(A) [Reserved]. For guidance see § 1.148-5.

(e)(2)(ii)(B) *External commingled funds.* For any semiannual period, a commingled fund satisfies the 10 percent requirement of § 1.148-5(e)(2)(ii)(B) if—

(1) Based on average amounts on deposit, this requirement was satisfied for the prior semiannual period; and

(2) The fund does not accept deposits that would cause it to fail to meet this requirement.

(iii) *Special rule for guaranteed investment contracts.* For a guaranteed invest-

ment contract, a broker's commission or similar fee paid on behalf of either an issuer or the provider is treated as an administrative cost and, except in the case of an issue that satisfies section 148(f)(4)(D)(i), is not a qualified administrative cost to the extent that the present value of the commission, as of the date the contract is allocated to the issue, exceeds the present value of annual payments equal to .05 percent of the weighted average amount reasonably expected to be invested each year of the term of the contract. For this purpose, present value is computed using the taxable discount rate used by the parties to compute the commission or, if not readily ascertainable, a reasonable taxable discount rate.

[T.D. 8538, 59 FR 24045, May 10, 1994. Redesignated by T.D. 8718, 62 FR 25507, May 9, 1997]

§ 1.148-6A General allocation and accounting rules.

(a) through (d)(3)(iii)(B) [Reserved]. For guidance see § 1.148-6.

(d)(3)(iii)(C) *Qualified endowment funds treated as unavailable.* For a 501(c)(3) organization, a qualified endowment fund is treated as unavailable. A fund is a qualified endowment fund if—

(1) The fund is derived from gifts or bequests, or the income thereon, that were neither made nor reasonably expected to be used to pay working capital expenditures;

(2) Pursuant to reasonable, established practices of the organization, the governing body of the 501(c)(3) organization designates and consistently operates the fund as a permanent endowment fund or quasi-endowment fund restricted as to use; and

(3) There is an independent verification (e.g., from an independent certified public accountant) that the fund is reasonably necessary as part of the organization's permanent capital.

[T. D. 8538, 59 FR 24045, May 10, 1994. Redesignated by T.D. 8718, 62 FR 25507, May 9, 1997]

§ 1.148-9A Arbitrage rules for refunding issues.

(a) through (c)(2)(ii)(A) [Reserved]. For guidance see § 1.148-9.

(c)(2)(ii)(B) *Permissive allocation of non-proceeds to earliest expenditures.* Excluding amounts covered by § 1.148-